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April 16, 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: **Ex Parte Communications**

**In the Matter of Federal-State Joint Board
on Universal Service, CC Docket No. 96-45,
Motion for Declaratory Ruling, etc., filed by
Florida Department of Management Services
on May 11, 1998; and**

**In the Matter of Federal-State Joint Board on
Universal Service, CC Docket No. 96-45,
Petitions for Reconsideration filed by
Washington State Department of Information Services
on July 16, 1997 and February 11, 1998.**

Dear Ms. Salas:

Pursuant to 47 C.F.R. § 1.1206, this letter notifies interested persons of two meetings and a telephone conversation on April 8, 1999, between or among representatives of the Washington State Department of Information Services ("DIS") and the Federal Communications Commission ("FCC"). The parties to those meetings/conversation and the substance of what was discussed appear below. Through a miscommunication, this letter is being filed more than one business day after the presentations. However, nothing that was discussed in the meetings/conversation presented data or arguments not already reflected in DIS' written comments, memoranda or other filings.

On April 8, 1999, Steven E. Kolodney, Director of DIS and Judith L. Harris, of the law firm of Reed Smith Shaw & McClay in Washington, D.C., met with Chairman William Kennard and Tom Power, his Legal Assistant, and, in a separate meeting, with Kevin Martin, Legal Assistant to Chairman Furchgott-Roth, to discuss three matters of interest to DIS.

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The first of those matters related to the "Motion for Declaratory Ruling or, Alternatively, Petition for Waiver by the State of Florida Department of Management Services," filed on May 11, 1998 ("Florida's Petition"), and the Reply Comments filed on June 22, 1998, by DIS in support of Florida's Petition. That Petition raises issues regarding the eligibility of Florida telecommunications contracts which have renewal options for Universal Service Fund ("USF") support under the Telecommunications Act of 1996. In its April 8 meetings, Mr. Kolodney explained that DIS and other public entities in Washington State, like public entities in Florida, routinely provide for renewal at their option in their contracts for telecommunications services. He further explained how these options operate and how they are a common business practice which serves the public interest by allowing taxpayer supported entities flexibility in responding to changes in marketplace conditions that may affect costs and services. Finally, Mr. Kolodney explained how uncertainty regarding the impact of renewal options on the eligibility of telecommunications contracts for USF support is a serious problem in states whose contracts include such options.

Second, Mr. Kolodney and Ms. Harris discussed a Petition for Reconsideration filed by DIS in CC Docket No. 96-45 on July 16, 1997, seeking reconsideration and/or clarification of the Commission's USF rules regarding buying consortia. As those rules are currently written, it appears the FCC could deny discounts to schools and libraries that acquire telecommunications services and access to advanced services through consortia, if those consortia buy services at less than a tariffed rate and if the consortia include private colleges (or other private entities). Mr. Kolodney explained that the State of Washington has already invested substantial funds to design and construct a "K-20 Educational Telecommunications Network," a statewide high-bandwidth backbone network that will eventually serve each of the state's 296 public K-12 school districts, its technical and community colleges, public baccalaureate institutions, and state and local libraries, as well as private K-12 and baccalaureate institutions. Mr. Kolodney further explained that the Commission's eligibility criteria for consortia potentially undermine this project and place Washington State policy makers in the untenable position of having to choose between turning down subsidies for schools and libraries or removing Washington's private, non-profit baccalaureate institutions from the network. DIS suggested language that could be inserted in Section 54.501(d) of the Commission's Final Rules that could alleviate this problem. See attachments hereto.

Third, DIS briefly discussed its Petition for Reconsideration in CC Docket No. 96-45, filed February 11, 1998, regarding the eligibility of state telecommunications networks for universal service support funds in connection with services they provide to schools and libraries eligible for discounted telecom. (and other) services. DIS explained how competition on a level playing field would be encouraged, choice would be expanded, and universal service funds would be conserved through the relief sought in DIS' petition.


Also on April 8, 1999, Ms. Harris briefly spoke with Mark Nadel of the FCC's Common Carrier Bureau on some of the same subjects.

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In addition to the original, we are providing the requisite copy of this letter and the enclosure to satisfy the filing requirement. Please date-stamp the second copy provided and return it to the messenger for delivery to us. Should there be any questions regarding this matter, please do not hesitate to contact the undersigned at 202-414-9276.

Very truly yours,


Judith L. Harris

JLH/lam
Enclosure

cc: Chairman William Kennard
Tom Power, Esq.
Kevin Martin, Esq.
Mark Nadel, Esq.

Section 54.501(d) of the Commission's Final Rules states:

(1) For purposes of seeking competitive bids for telecommunications services, schools and libraries eligible for support under this subpart may form consortia with other eligible schools and libraries, **with baccalaureate institutions of higher education, including state colleges, state universities, and independent, non-profit colleges and universities,** with [eligible] health care providers . . . , and with public sector (governmental) entities, including, but not limited to, ~~state colleges and state universities,~~ state educational broadcasters, counties, and municipalities, when ordering telecommunications and other supported services under this subpart. With one exception, eligible schools and libraries participating in consortia with ineligible private sector members shall not be eligible for discounts for interstate services under this subpart. A consortium may include ineligible private sector entities if the pre-discount prices of any services that such consortium receives from [an incumbent local exchange carrier] are generally tariffed rates.¹

¹ The Telecommunications Act of 1996 defines "incumbent local exchange carrier" as meaning "with respect to an area, the local exchange are that, (A) on the date of enactment [of the Act], provided telephone exchange service, and (B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to [47 C.F.R. 69.601(b)], or (ii) is a person or entity that, on or after such date of enactment, became a successor or assign to a member described in clause (i)." Many of the transport services for the K-20 Educational Telecommunications Network are provided by "incumbent local exchange carriers."